IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

Crl.MC.No. 631 of 2007()

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CC.685/2006 of J.F.C.M. (MARAD CASES) KOZHIKODE

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PETITIONER: ACCUSED

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1. YAHOO, S/O.MOIDU, NADUKKANDI HOUSE,
   VALAYAND AMSOM, KOMMERI.

2. ABDUL NAZAR, S/O.YAHOO,
   NADUKKANDIPARAMBA,
   VALAYANAD AMSOM.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS: COMPLAINANT & STATE

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1. STATION HOUSE OFFICER,
   MEDICAL COLLEGE POLICE STATION.

2. STATE OF KERALA,
   REPRESENTED BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 08/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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**CRL.M.C.NO. 631 OF 2007**

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**Dated this the 8th day of March, 2007**

**ORDER**

The petitioners are accused 1 and 2 in a prosecution, inter alia, under Sec.324 read with Sec.149 of the IPC. Altogether, there were six accused persons. Accused Nos.3, 4 and 5 have already been found not guilty and acquitted. The case against the petitioners has been split up. It is now pending as C.C.No.685/06 before the learned Magistrate. As the petitioners were not available, warrants of arrest have been issued by the learned Magistrate. The petitioners find such warrants of arrest chasing them. The petitioners, in these circumstances, want to surrender before the learned Magistrate and seek regular bail. The petitioners apprehend that their application for regular bail may not be considered by the learned Magistrate on merits in accordance with law and expeditiously. It is, in these circumstances, that the petitioners have come to this Court for a direction to the learned Magistrate to release them on bail when they appear before the learned Magistrate.

2. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioners' application for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioners surrender before the learned Magistrate and seek bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

**Sd/-**

**(R. BASANT, JUDGE)**

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**//true copy//** **P.S. To Judge**